

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

BRANKA BRENNER as Special Administrator of the Estate of TOMISLAV PANTOVIC, deceased,)	
)	
Plaintiff,)	Case No.
)	FILED: AUGUST 14 , 2008
v.)	08CV4629
)	JUDGE BUCKLO
GREIF BROTHERS CORPORATION,)	MAGISTRATE JUDGE BROWN
)	
Defendant.)	AEE

NOTICE OF REMOVAL

Defendant, GREIF, INC., formerly known as GREIF BROS. CORPORATION, ("Greif"), by and through its attorneys Hinshaw & Culbertson LLP, hereby files this Notice of Removal of the action brought in the Circuit Court of Cook County, Illinois, County Department, Law Division, by BRANKA BRENNER as Special Administrator of the estate of TOMISLAV PANTOVIC, deceased, under Case No. 2008 L 006963 to the United States District Court for the Northern District of Illinois pursuant to 28 U.S.C. §§1441 and 1446. In support of this Notice, defendant states:

JURISDICTIONAL STATEMENT

1. On June 25, 2008, plaintiff filed a Complaint (attached as "Ex. A") in the Circuit Court of Cook County, Illinois, County Department, Law Division, bearing the caption *Branka Brenner as Special Administrator of the Estate of Tomislav Pantovic, deceased, Plaintiffs v. Greif Brothers Corporation, Defendant*, Civil No. 2008 L 006963. Defendant removes that action to this Court under 28 U.S.C. §§1441 and 1446, pursuant to this Notice.

2. Pursuant to 28 U.S.C. §§1441 and 1446, federal court jurisdiction is extended over actions in which there is complete diversity between the plaintiff and defendant, and the amount in controversy exceeds \$75,000.00. *See* 28 U.S.C. §1332(a).

3. Defendant Greif, Inc. was served on July 15, 2008 (*See* Ex. B), and therefore, defendants' notice of removal is timely filed under 28 U.S.C. 1446(b). *See Murphy Bros., Inc., v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 347 (1999). Accordingly, removal is proper so long as the plaintiff is diverse from the defendant, and the amount in controversy exceeds the aggregate monetary jurisdictional threshold.

A. Diversity

4. The declaration of Gary Martz, the Senior Vice President & General Counsel of Greif, Inc. (attached as Ex. C) establishes that the defendant Greif is a citizen of the States of Delaware and Ohio for diversity purposes. Greif is a corporation organized and incorporated under the laws of the State of Delaware and has its principal place of business in Ohio where its executive offices are located. *See* 28 U.S.C. §1332(c)(1). *See* Ex. C, ¶3.

5. Plaintiff alleges that, "at all relevant times," Tomislav Pantovic was a resident of Cook County, Illinois (Ex. A, ¶ 2).

6. Accordingly, there is complete diversity between the defendant Greif, which is a citizen of the States of Delaware and Ohio, and the plaintiff who was a citizen of the State of Illinois at all relevant times. *See* 28 U.S.C. §1332(d)(2)(A).

B. Amount In Controversy

7. Plaintiff's Complaint seeks the recovery in an amount in excess of Fifty \$50,000.00 (Ex. A). However, as this case involves the fatal electrocution of Mr. Pantovic, from which he allegedly "endured conscious pain and suffering, disability and disfigurement" prior to his death on November 13, 2006 (Ex. A, ¶ 16), defendant Greif has a good faith basis to believe that the amount in controversy with regard to the plaintiff exceeds \$75,000.00, exclusive of interest and costs.

8. In addition, Greif has issued a Request for Admission of Facts to the plaintiff, seeking admission that the damages sought in this case exceed \$75,000.00 (attached as "Ex. D").

9. Accordingly, the amount in controversy exceeds the \$75,000.00 jurisdictional threshold pursuant to 28 U.S.C. §1332(a).

10. Therefore, since diversity of citizenship exists between the parties, and the amount in controversy exceeds \$75,000.00, this case is properly removable to the United States District Court, pursuant to 28 U.S.C. §§1441 and 1446.

PROCEDURAL STATEMENT

11. Pursuant to 28 U.S.C. §1446(a), true and correct copies of the Complaint (Ex. A) and other process (Ex. B) served upon the defendants are attached to this Notice.

12. Pursuant to 28 U.S.C. §1441(a), removal to the United States District Court for the Northern District of Illinois is proper because that District embraces the Circuit Court of Cook County, Illinois, the place where this action is currently pending. *See* 28 U.S.C. §93(c).

13. Pursuant to 28 U.S.C. §1446(d) defendants will promptly file a copy of this Notice of Removal in the Circuit Court of Cook County, Illinois, County Department, Law Division, and give written notice of the removal of the action to counsel for plaintiff.

14. By removing the action to this Court, defendant does not waive any defenses, objections or motions available to it under state or federal law. Defendant expressly reserves the right to move for dismissal of plaintiff's claims pursuant to Rule 12 of the Federal Rules of Civil Procedure and to object to certification on any grounds then available.

WHEREFORE, pursuant to 28 U.S.C. §§1441 and 1446, Greif, Inc. respectfully removes to this Court the action docketed under Civil No. 2008 L 006963 in the Circuit Court of Cook County, Illinois, County Department, Law Division.

Dated: August 14, 2008.

Respectfully submitted,

By: s/ David R. Creagh
One of the Attorneys for Defendant,
Greif, Inc.

David R. Creagh, Esq.
HINSHAW & CULBERTSON LLP
222 North LaSalle Street
Suite 300
Chicago, IL 60601-1081
Phone: (312) 704-3000
Fax: (312) 704-3001

Counsel for Defendant

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

BRANKA BRENNER as Special Administrator of)		
the Estate of TOMISLAV PANTOVIC, deceased,)		
)	
Plaintiff,)		Case No.
)	
v.)		
)	
GREIF BROTHERS CORPORATION,)		
)	
Defendant.)		

CERTIFICATE OF SERVICE

I hereby certify that I served Defendant's Notice of Removal by depositing a true and accurate copy of same, addressed to the parties referenced below, in the U.S. Mail located at 222 North LaSalle Street, Chicago, Illinois, by 5:00 p.m. on the 14th day of August, 2008.

Joseph A. Power, Jr.
Devon C. Bruce
POWER, ROGERS & SMITH
70 W. Madison Street, Suite 5500
Chicago, IL 60602
(312) 236-9381
FAX: (312) 236-0920

Counsel for Plaintiffs

Respectfully submitted,

By: s/ David R. Creagh
One of the Attorneys for Defendant,
Greif, Inc.

David R. Creagh, Esq.
HINSHAW & CULBERTSON LLP
222 North LaSalle Street
Suite 300
Chicago, IL 60601-1081
Phone: (312) 704-3000
Fax: (312) 704-3001

Counsel for Defendant

AEE

EXHIBIT A

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

BRANKA BRENNER as Special Administrator of)
the Estate of TOMISLAV PANTOVIC, deceased)

Plaintiffs,)

v.)

GREIF BROTHERS CORPORATION,)

Defendant.)

200810056963
CALLED 08/14/2008 X
TIME 00:00
Proxies Liability

No. _____

COMPLAINT

Now comes the plaintiff, Branka Brenner, as Special administrator of the Estate of Tomislav Pantovic, deceased, by and through their counsel, Power, Rogers & Smith, and complaining of the defendants, Greif Brothers Corporation, hypothetically and alternatively states as follows:

Count I
(Negligence/Wrongful Death- Greif Brothers)

1. On or about November 13th, 2006, Greif Brothers Corporation (hereinafter "Greif") was a corporation with its principal place of business located in Naperville, IL.
2. The plaintiff, Tomislav Pantovic was at all relevant times a resident of Cook County.
3. On and prior to November 13th, 2006, Tomislav Pantovic was a licensed electrician working for Dubek Electric Company.
4. On or about November 11th, 2006, Tomislav Pantovic was performing work at Greif located at 5 S. 220 Frontenac Road in Naperville, IL, 60563.
5. On or about November 11th, 2006, Greif owned a Geo M. Martin Company Co. Unwinder, #1 Serial Number RS3204 (hereinafter "the unwinder") located at its facility in Naperville, IL).
6. On or about November 11, 2006, Tomislav Pantovic was working on the aforesaid unwinder when he was electrocuted.
7. On or about November 11th, 2006, the unwinder was a hazard and unreasonably dangerous for a number of reasons including:

- A. The unwinder contained hard service flexible cords #12 or larger which had been previously damaged and not repaired by splice.
 - B. The unwinder included hard service flexible cords #12 which did not retain the insulation or outer sheath properties and usage characteristics of the cord.
 - C. The unwinder had #14 hard service flexible cords which had been repaired with electrical tape as a replacement of missing or damaged outer sheathing.
 - D. The unwinder had flexible cords which were not connected to devices and fittings so that strain relief was not provided which would prevent electrical pull from being transmitted to joints or terminal screws.
 - E. The unwinder contained a number #14 hard service cord which was attached to a Chicago-Pyle Trip-Loc 480 volt attachment plug which did not provide strain relief on either the male or female side of the plug.
 - F. The 14 gauge electrical cord present on the unwinder at issue was severely damaged.
 - G. The 14 gauge electrical wire on the unwinder had inner wires which were broken and that Greif employees had taped back together.
- 8. On and prior to November 11th, 2006, Greif Corporation was responsible for the inspection and maintenance of the aforesaid unwinder.
 - 9. On and prior to November 11th, 2006, Greif owed a duty of care to properly maintain its electrical equipment such that it did not constitute a hazard to individuals working in or near the panel.
 - 10. On or prior to November 11th, 2006, agents or employees of Greif had actual knowledge of the aforesaid unreasonably dangerous conditions of the unwinder.
 - 11. On or prior to November 11th, 2006, the plant manager for Greif Brothers had actual knowledge that employees were plugging and unplugging the plug on the 480 volt unwinder on a periodic basis.
 - 12. On or prior to November 11th, 2006 and as a direct result of Greif's maintenance and repair of the unwinder, the male and female plug-ins were compatible to be joined in more than one configuration.
 - 13. On or prior to November 11th, 2006, the unwinder contained insulation on the female side of the flexible cord which did not have the insulated properties that were equivalent to what the manufacturer of the unwinder had produced.

14. On or prior to November 11th, 2006, the unwinder contained a socket end which did provided adequate strain relief or insulation.
15. On and prior to November 11th, 2006, Greif by and through its employees was negligent in one or more of the following respects:
 - a. Violated 29 CFR 1910.303(b)(1) and failed to properly maintain the aforesaid Geo M. Martin Company, Unwinder #1, Serial Number RS3204 which created an unreasonably dangerous condition; or
 - b. Violated 29 CFR 1910.305(g)(2)(ii) in that it allowed the Geo M. Martin Company, Unwinder #1, Serial Number RS3204 to be improperly repaired including not repairing the flexible cord by splicing and providing proper insulation; or
 - c. Violated 29 CFR 1910.305(g)(2)(ii) in allowing the Geo M. Martin Company, Unwinder #1, Serial Number RS3204 No. 14 to have a hard service flexible cord to be repaired with electrical tape as a replacement of missing or damaged outer sheathing; or
 - d. Violated 29 CFR 1910.305(g)(2)(iii) by allowing flexible cords to exist which could be pulled from being transmitted to joints or terminal screws; or
 - e. Violated 29 CFR 1910.305(g)(2)(iii) by allowing the Geo M. Martin Company, Unwinder #1, Serial Number RS3204 to be improperly maintained in such that it did not provide strain relief on either the male or female side of the plug; or
 - f. Failed to properly warn individuals or employees working on or in the area of the aforesaid hazards of the Geo M. Martin Company, Unwinder #1, Serial Number RS3204.
16. As a direct and proximate result of one or more of the above described negligent acts and/or omissions, TOMISLAV PANTOVIC endured conscious pain and suffering, disability and disfigurement which led to his death on November 13th, 2006.
17. At the time of his death, Tomislav Pantovic left surviving his parents and siblings.

Wherefore, Plaintiff, Branka Brenner, As Special Administrator of the Estate of Tomislav Pantovic, deceased, by and through her attorneys, Power Rogers & Smith, P.C., demands judgment against defendant, Greif Brothers Corporation, in an amount of money in excess of Fifty Thousand Dollars (\$50,000.00) as shall represent fair and just compensation.

Count II
(Negligence- Greif- Survival)

1. On or about November 13th, 2006, Greif Brothers Corporation (hereinafter "Greif") was a corporation with its principal place of business located in Naperville, IL.
2. The plaintiff, Tomislav Pantovic was at all relevant times a resident of Cook County.
3. On and prior to November 13th, 2006, Tomislav Pantovic was a licensed electrician working for Dubek Electric Company.
4. On or about November 11th, 2006, Tomislav Pantovic was performing work at Greif located at 5 S. 220 Frontenac Road in Naperville, IL, 60563.
5. On or about November 11th, 2006, Greif owned a Geo M. Martin Company Co. Unwinder, #1 Serial Number RS3204 (hereinafter "the unwinder") located at its facility in Naperville, IL).
6. On or about November 11, 2006, Tomislav Pantovic was working on the aforesaid unwinder when he was electrocuted.
7. On or about November 11th, 2006, the unwinder was a hazard and unreasonably dangerous for a number of reasons including:
 - A. The unwinder contained hard service flexible cords #12 or larger which had been previously damaged and not repaired by splice.
 - B. The unwinder included hand service flexible cords #12 which did not retain the insulation or outer sheath properties and usage characteristics of the cord.
 - C. The unwinder had #14 hard service flexible cords which had been repaired with electrical tape as a replacement of missing or damaged outer sheathing.
 - D. The unwinder had flexible cords which were not connected to devices and fittings so that strain relief was not provided which would prevent electrical pull from being transmitted to joints or terminal screws.
 - E. The unwinder contained a number #14 hard service cord which was attached to a Chicago-Pyle Trip-Loc 480 volt attachment plug which did not provide strain relief on either the male or female side of the plug.
 - F. The 14 gauge electrical cord present on the unwinder at issue was severely damaged.

- G. The 14 gauge electrical wire on the unwinder had inner wires which were broken and that Greif employees had taped back together.
8. On and prior to November 11th, 2006, Greif Corporation was responsible for the inspection and maintenance of the aforesaid unwinder.
 9. On and prior to November 11th, 2006, Greif owed a duty of care to properly maintain its electrical equipment such that it did not constitute a hazard to individuals working in or near the panel.
 10. On or prior to November 11th, 2006, agents or employees of Greif had actual knowledge of the aforesaid unreasonably dangerous conditions of the unwinder.
 11. On or prior to November 11th, 2006, the plant manager for Greif Brothers had actual knowledge that employees were plugging and unplugging the plug on the 480 volt unwinder on a periodic basis.
 12. On or prior to November 11th, 2006 and as a direct result of Greif's maintenance and repair of the unwinder, the male and female plug-ins were compatible to be joined in more than one configuration.
 13. On or prior to November 11th, 2006, the unwinder contained insulation on the female side of the flexible cord which did not have the insulated properties that were equivalent to what the manufacturer of the unwinder had produced.
 14. On or prior to November 11th, 2006, the unwinder contained a socket end which did provided adequate strain relief or insulation.
 15. On and prior to November 11th, 2006, Greif by and through its employees was negligent in one or more of the following respects:
 - a. Violated 29 CFR 1910.303(b)(1) and failed to properly maintain the aforesaid Geo M. Martin Company, Unwinder #1, Serial Number RS3204 which created an unreasonably dangerous condition; or
 - b. Violated 29 CFR 1910.305(g)(2)(ii) in that it allowed the Geo M. Martin Company, Unwinder #1, Serial Number RS3204 to be improperly repaired including not repairing the flexible cord by splicing and providing proper insulation; or
 - c. Violated 29 CFR 1910.305(g)(2)(ii) in allowing the Geo M. Martin Company, Unwinder #1, Serial Number RS3204 to have a No. 14 hard service flexible cord to be repaired with electrical tape as a replacement of missing or damaged outer sheathing; or

- d. Violated 29 CFR 1910.305(g)(2)(iii) by allowing flexible cords to exist which could be pulled from being transmitted to joints or terminal screws; or
- e. Violated 29 CFR 1910.305(g)(2)(iii) by allowing the Geo M. Martin Company, Unwinder #1, Serial Number RS3204 to be improperly maintained in such that it did not provide strain relief on either the male or female side of the plug; or
- f. Failed to properly warn individuals or employees working on or in the area of the aforesaid hazards of the Geo M. Martin Company, Unwinder #1, Serial Number RS3204.

16. As a direct and proximate result of one or more of the above described negligent acts and/or omissions, TOMISLAV PANTOVIC endured conscious pain and suffering, disability and disfigurement which led to his death on November 13th, 2006.

17. At the time of his death, Tomislav Pantovic left surviving his parents and siblings.

18. That had he survived, Decedent Tomislav Pantovic would have been entitled to bring an action for the injuries he suffered and said action has survived his death, pursuant to 755 ILCS 5/27-6, commonly known as the Survival Act.

19. That Branka Brenner is the Administrator the Estate of Tomislav Pantovic, Deceased.

Wherefore, Plaintiff, Branka Brenner, As Special Administrator of the Estate of Tomislav Pantovic, deceased, by and through her attorneys, Power Rogers & Smith, P.C., demands judgment against defendant, Greif Brothers Corporation, in an amount of money in excess of Fifty Thousand Dollars (\$50,000.00) as shall represent fair and just compensation.

Respectfully Submitted,

Branka Brenner, As Special Administrator of the Estate of
Tomislav Pantovic, deceased,

By: 

Counsel for Plaintiff

Joseph A. Power, Jr.
Devon C. Bruce
POWER, ROGERS & SMITH
70 W. Madison Street, Suite 5500
Chicago, IL 60602
#312/236-9381
f#312/236-0920

JUDGE BUCKLO

MAGISTRATE JUDGE BROWN

AEE

EXHIBIT B

CT CORPORATION
A WoltersKluwer Company

**Service of Process
Transmittal**

07/15/2008

CT Log Number 513636212



TO: Gary Martz
Greif, Inc.
425 Winter Road
Delaware, OH 43015

RE: Process Served in Illinois

FOR: Greif Bros. Corporation (Former Name) (Domestic State: DE)
Greif, Inc. (True Name)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Branka Brenner, as Special Administrator of the Estate of Tomislav Pantovic, Deceased, Pltf. vs. Greif Brothers Corporation, Dfts.
Name discrepancy noted.

DOCUMENT(S) SERVED: Summons (2 sets), Complaint

COURT/AGENCY: Cook County Circuit Court - Cook County Department - Law Division, IL
Case # 2008 L 006963

NATURE OF ACTION: Product Liability Litigation - Manufacturing Defect - Unwinder #1 - Serial No: RS3204 - Wrongful Death on 11/11/2006 due to being electrocuted

ON WHOM PROCESS WAS SERVED: C T Corporation System, Chicago, IL

DATE AND HOUR OF SERVICE: By Process Server on 07/15/2008 at 10:00

APPEARANCE OR ANSWER DUE: Within 30 days after service, not counting the day of service

ATTORNEY(S) / SENDER(S): Devon C. Bruce
Power, Rogers & Smith PC
70 West Madison Street
Chicago, IL 60602
312-236-9381

ACTION ITEMS: SOP Papers with Transmittal, via Fed Ex 2 Day, 790544600073
Email Notification, Jeffery C Wood JEFF.WOOD@GREIF.COM
Email Notification, Gary Martz gary.martz@greif.com

SIGNED: C T Corporation System
PER: Tawana Carter
ADDRESS: 208 South LaSalle Street
Suite 814
Chicago, IL 60604
TELEPHONE: 312-345-4338

Page 1 of 1/DS

Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of package only, not contents.

JUDGE BUCKLO

MAGISTRATE JUDGE BROWN

AEE

EXHIBIT C

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

BRANKA BRENNER as Special Administrator of)		
the Estate of TOMISLAV PANTOVIC, deceased,)		
)	
Plaintiff,)		Case No.
)	
v.)		
)	
GREIF BROTHERS CORPORATION,)		
)	
Defendant.)		

DECLARATION

I, Gary R. Martz, declare pursuant to 28 U.S.C. §1746 as follows:

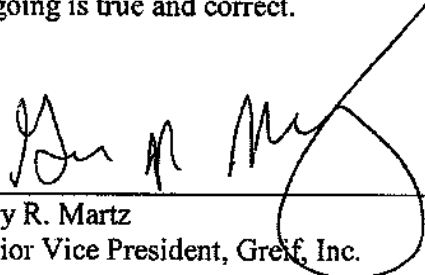
1. I am employed by Greif, Inc. (hereinafter "Greif") as Senior Vice President.
2. I make this declaration on my own personal knowledge and if called to testify, could competently testify to the facts set forth below.
3. I submit this declaration in support of the defendant's Notice of Removal which seeks to remove to the United States District Court for the Northern District of Illinois, the action originally filed in the Circuit Court of Cook County, Illinois, County Department, Law Division bearing the caption *Branka Brenner as Special Administrator of the Estate of Tomislav Pantovic, deceased, Plaintiffs v. Greif Brothers Corporation, Defendant*, docketed under Case No. 2008 L 006963.
4. Greif, Inc., formerly known as Greif Bros. Corporation, is a corporation organized and incorporated under the laws of the State of Delaware.

5. Greif, Inc.'s executive offices and principal place of business are located in Delaware, Ohio.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: August 13, 2008

By:



Gary R. Martz
Senior Vice President, Greif, Inc.

AEE

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

BRANKA BRENNER as Special Administrator of)	
the Estate of TOMISLAV PANTOVIC, deceased,)	
)	
Plaintiff,)	Case No.
)	
v.)	
)	
GREIF BROTHERS CORPORATION,)	
)	
Defendant.)	

REQUEST FOR ADMISSIONS OF FACTS

Defendant, GREIF, INC., formerly known as GREIF BROS. CORPORATION, ("Greif"), by and through its attorneys, Hinshaw & Culbertson LLP, propounds the following Request for Admissions of Fact to be answered by plaintiff BRANKA BRENNER as Special Administrator of the Estate of TOMISLAV PANTOVIC, deceased:

1. Admit that the damages sought in the above-captioned matter by plaintiff Branka Brenner as Special Administrator of the Estate of Tomislav Pantovic exceeds the amount of \$75,000.00, exclusive of interest and costs.

Dated: August 14, 2008	Respectfully submitted,
	By: <u>s/ David R. Creagh</u>
	One of the Attorneys for Defendant,
	Greif, Inc.

David R. Creagh, Esq.
HINSHAW & CULBERTSON LLP
222 North LaSalle Street, Suite 300
Chicago, IL 60601-1081
Phone: (312) 704-3000
Fax: (312) 704-3001

Counsel for Defendant

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

BRANKA BRENNER as Special Administrator of)	
the Estate of TOMISLAV PANTOVIC, deceased,)	
)	
Plaintiff,)	Case No.
)	
v.)	
)	
GREIF BROTHERS CORPORATION,)	
)	
Defendant.)	

CERTIFICATE OF SERVICE

I hereby certify that I served Defendant's Request for Admissions of Facts by depositing a true and accurate copy of same, addressed to the parties referenced below, in the U.S. Mail located at 222 North LaSalle Street, Chicago, Illinois, by 5:00 p.m. on the 14th day of August, 2008.

Joseph A. Power, Jr.
Devon C. Bruce
POWER, ROGERS & SMITH
70 W. Madison Street, Suite 5500
Chicago, IL 60602
(312) 236-9381
FAX: (312) 236-0920

Counsel for Plaintiffs

Respectfully submitted,

By: s/ David R. Creagh
One of the Attorneys for Defendant,
Greif, Inc.

David R. Creagh, Esq.
HINSHAW & CULBERTSON LLP
222 North LaSalle Street
Suite 300
Chicago, IL 60601-1081
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Counsel for Defendant